
By: **Delegate Fulton**

Introduced and read first time: February 7, 2003

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Title Insurance - Trust Money Protection**

3 FOR the purpose of requiring title insurers to provide reimbursement for certain
4 losses sustained by a seller, purchaser, borrower, or lender in connection with
5 certain real estate transactions under certain circumstances; establishing
6 certain limitations on the provision of reimbursement; prohibiting a title insurer
7 from splitting certain fees with a title insurance producer or paying certain
8 commissions to a title insurance producer; providing for the allocation of liability
9 for losses resulting from the conversion or misappropriation of certain trust
10 money under certain circumstances; requiring a protected party to give certain
11 notice to a title insurer under certain circumstances; providing for the
12 application of certain administrative remedies to certain claims; limiting the
13 liability of certain title insurers under certain circumstances; requiring a title
14 insurer to collect certain fees under certain circumstances; requiring certain
15 persons who receive certain premiums to provide certain information to certain
16 purchasers in connection with certain real estate transactions; authorizing a
17 title insurer or title insurance producer to provide a coverage statement to a
18 party to a closing describing certain trust money protection; establishing that a
19 certain prohibition against collecting a premium or charge for insurance does
20 not apply to certain fees collected by a title insurer; defining certain terms;
21 authorizing the Maryland Insurance Commissioner to review and modify
22 certain fees on or after a certain date; and generally relating to title insurance
23 and trust money protection.

24 BY repealing and reenacting, with amendments,
25 Article - Insurance
26 Section 22-102(a) and 27-216(b)(2)
27 Annotated Code of Maryland
28 (2002 Replacement Volume and 2002 Supplement)

29 BY adding to
30 Article - Insurance
31 Section 22-104
32 Annotated Code of Maryland

1 (2002 Replacement Volume and 2002 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article - Insurance

4 Section 27-216(b)(1)

5 Annotated Code of Maryland

6 (2002 Replacement Volume and 2002 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Insurance**

10 22-102.

11 (a) When, in connection with a real estate transaction that involves a
12 purchase money mortgage or deed of trust on land in the State, a title insurer accepts
13 a premium for a policy that insures the title to the property or the title insurer, its
14 agent, or employee accepts a premium for mortgagee title insurance, the person first
15 accepting the premium:

16 (1) shall insert the name of each insured in the binder for the title
17 insurance or the title report; and

18 (2) immediately on receipt of the premium, shall deliver to the buyer or
19 agent or attorney of the buyer written notice:

20 (i) of the name of each insured under the policy;

21 (ii) of the face amount of the policy;

22 (iii) of the buyer's right and opportunity to obtain simultaneous title
23 insurance in the buyer's favor;

24 (iv) of the additional premium that will be required for purchase of
25 simultaneous title insurance in the buyer's favor;

26 (v) that the buyer's title insurance will be subject only to the
27 contingencies and conditions contained in the binder, title report, and policy;

28 (vi) of the buyer's right to review a sample of the form of policy in
29 which the contingencies and conditions will be inserted; [and]

30 (vii) that contains a clear statement of the contingencies that must
31 be satisfied to make the buyer's policy effective, if the buyer's policy is not effective on
32 payment of the premium; AND

33 (VIII) THAT THE PURCHASE OF TITLE INSURANCE FOR THE BUYER'S
34 PROTECTION WILL PROVIDE COVERAGE AGAINST LOSS CAUSED BY THE

1 CONVERSION OR MISAPPROPRIATION OF TRUST MONEY DELIVERED BY THE BUYER
2 TO THE TITLE INSURANCE PRODUCER OR TITLE INSURER IN CONNECTION WITH A
3 REAL ESTATE TRANSACTION.

4 22-104.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) "BORROWER" MEANS A PERSON, OTHER THAN A PURCHASER, WHO
8 TRANSFERS AN ESTATE OR INTEREST IN PROPERTY OR CREATES A LIEN,
9 ENCUMBRANCE, OR SECURITY INTEREST IN PROPERTY, AS SECURITY FOR MONEY
10 LENT BY A LENDER THROUGH A CLOSING.

11 (3) (I) "CLOSING" MEANS THE PROCESS BY WHICH A TITLE
12 INSURANCE PRODUCER OR TITLE INSURER COLLECTS AND HOLDS TRUST MONEY,
13 OBTAINS THE EXECUTION OF TITLE DOCUMENTS, AND DISBURSES THE TRUST
14 MONEY TO A PAYMENT RECIPIENT IN ACCORDANCE WITH A SETTLEMENT
15 STATEMENT IN CONNECTION WITH A PROPERTY TRANSACTION.

16 (II) "CLOSING" INCLUDES HOLDING TRUST MONEY IN ESCROW IN
17 CONNECTION WITH A TITLE INDEMNIFICATION OBTAINED FOR A PROPERTY
18 TRANSACTION.

19 (4) "GOOD FUNDS" MEANS:

20 (I) AS TO A LENDER, LOAN PROCEEDS DISBURSED BY A LENDER TO
21 A TITLE INSURANCE PRODUCER OR TITLE INSURER UNDER § 7-109 OF THE REAL
22 PROPERTY ARTICLE; AND

23 (II) AS TO A SELLER, PURCHASER, OR BORROWER WHO IS
24 REQUIRED TO PROVIDE FUNDS IN CONNECTION WITH A CLOSING, FUNDS:

25 1. IN THE FORM DESCRIBED IN § 7-109(C) AND (D) OF THE
26 REAL PROPERTY ARTICLE; OR

27 2. IN THE FORM OF A CHECK ISSUED ON AN ATTORNEY'S
28 TRUST ACCOUNT OR A TITLE INSURANCE PRODUCER'S OR TITLE INSURER'S REAL
29 ESTATE SETTLEMENT ACCOUNT.

30 (5) "LENDER" MEANS A PERSON THAT PROVIDES LOAN MONEY TO A
31 BORROWER THROUGH A CLOSING ON PROPERTY IN WHICH THE LOAN MONEY IS
32 SECURED BY A TITLE DOCUMENT.

33 (6) "LENDER'S DOCUMENTS" MEANS DOCUMENTS USED TO CREATE, OR
34 WHICH AFFECT THE STATE OF, THE INTEREST, ESTATE, LIEN, ENCUMBRANCE, OR
35 SECURITY INTEREST IN THE PROPERTY THAT IS THE SUBJECT OF A CLOSING.

36 (7) "PARTY TO THE CLOSING" MEANS THE BUYER, SELLER, BORROWER,
37 OR LENDER WHO TAKES PART IN A PROPERTY TRANSACTION.

1 (8) "PAYMENT RECIPIENT" MEANS A PARTY TO A CLOSING AND ANY
2 OTHER PERSON INDICATED ON THE SETTLEMENT STATEMENT AS BEING ENTITLED
3 TO RECEIVE TRUST MONEY FOR:

4 (I) PAYMENT OR SATISFACTION OF AN INTEREST, ESTATE, LIEN,
5 ENCUMBRANCE, OR SECURITY INTEREST IN THE PROPERTY THAT IS THE SUBJECT
6 OF THE PROPERTY TRANSACTION;

7 (II) PAYMENT OF TRANSFER TAXES, RECORDATION TAXES, OR
8 GOVERNMENTAL RECORDING FEES IN CONNECTION WITH THE RECORDATION OF
9 TITLE DOCUMENTS; OR

10 (III) PAYMENT OF REAL ESTATE BROKERAGE COMMISSIONS.

11 (9) "PAYMENT STATEMENT" MEANS A COMMUNICATION FROM A
12 PAYMENT RECIPIENT INDICATING THE AMOUNT NECESSARY TO SATISFY THE
13 PAYMENT RECIPIENT'S ESTATE, INTEREST, LIEN, ENCUMBRANCE, OR SECURITY
14 INTEREST IN THE PROPERTY THAT IS THE SUBJECT OF A PROPERTY TRANSACTION.

15 (10) "PROTECTED PARTY" MEANS A PARTY TO A CLOSING WHO IS
16 ENTITLED TO REIMBURSEMENT UNDER SUBSECTION (B) OF THIS SECTION.

17 (11) "PROPERTY TRANSACTION" MEANS A TRANSACTION IN WHICH:

18 (I) A SELLER CONVEYS OR TRANSFERS AN ESTATE OR INTEREST
19 IN A PROPERTY TO A PURCHASER; OR

20 (II) A BORROWER OR PURCHASER CONVEYS OR TRANSFERS AN
21 ESTATE OR AN INTEREST IN PROPERTY, OR CREATES A LIEN, ENCUMBRANCE, OR
22 SECURITY INTEREST IN PROPERTY, FOR THE BENEFIT OF A LENDER.

23 (12) "PURCHASER" MEANS A PERSON THAT ACQUIRES AN ESTATE OR
24 INTEREST IN PROPERTY FROM A SELLER THROUGH A CLOSING.

25 (13) "SELLER" MEANS A PERSON THAT TRANSFERS AN ESTATE OR
26 INTEREST IN PROPERTY TO A PURCHASER THROUGH A CLOSING.

27 (14) "SETTLEMENT STATEMENT" MEANS THE DOCUMENT PROVIDED AT A
28 CLOSING THAT:

29 (I) ITEMIZES THE CHARGES AND COSTS INCURRED OR IMPOSED
30 ON THE PARTIES TO THE CLOSING;

31 (II) INDICATES THE ADJUSTMENT OF TRUST MONEY AMONG THE
32 PARTIES TO THE CLOSING; AND

33 (III) INDICATES THE COLLECTION AND APPLICATION OF TRUST
34 MONEY ON BEHALF OF A PAYMENT RECIPIENT AND ANY OTHER PERSON INVOLVED
35 IN THE PROPERTY TRANSACTION.

1 (15) "TITLE DOCUMENTS" MEANS DOCUMENTS THAT MEMORIALIZE OR
2 EFFECT THE TRANSFER OR CONVEYANCE OF AN INTEREST OR ESTATE IN PROPERTY
3 OR THE CREATION OF A LIEN, ENCUMBRANCE, OR SECURITY INTEREST IN PROPERTY.

4 (16) "TITLE INSURANCE PRODUCER" HAS THE MEANING STATED IN §
5 10-101 OF THIS ARTICLE.

6 (17) "TITLE INSURER" MEANS A PERSON AUTHORIZED TO ACT AS A TITLE
7 INSURER BY THE COMMISSIONER.

8 (18) (I) "TOTAL FUNDS" MEANS THE AGGREGATE OF TRUST MONEY
9 HELD BY A TITLE INSURANCE PRODUCER OR TITLE INSURER IN CONNECTION WITH A
10 CLOSING.

11 (II) "TOTAL FUNDS" DOES NOT INCLUDE FUNDS OR PROPERTY
12 HELD BY A TITLE INSURANCE PRODUCER OR TITLE INSURER THAT ARE UNRELATED
13 TO A CLOSING.

14 (19) "TRUST MONEY" HAS THE MEANING STATED IN § 22-103 OF THIS
15 TITLE.

16 (B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A
17 TITLE INSURER SHALL PROVIDE REIMBURSEMENT FOR ACTUAL LOSS OF TRUST
18 MONEY SUSTAINED AS A RESULT OF CONVERSION OR MISAPPROPRIATION BY THE
19 TITLE INSURER'S EMPLOYEE OR TITLE INSURANCE PRODUCER OR BY AN EMPLOYEE
20 OR AGENT OF THE TITLE INSURER'S INSURANCE PRODUCER TO A:

21 (I) SELLER, IF A TITLE INSURANCE PREMIUM IS COLLECTED IN
22 CONNECTION WITH A TITLE INSURANCE POLICY, FOR TRUST MONEY DELIVERED IN
23 GOOD FUNDS BY OR ON BEHALF OF THE SELLER TO THE TITLE INSURANCE
24 PRODUCER OR TITLE INSURER OR PAYABLE TO A PAYMENT RECIPIENT IN
25 ACCORDANCE WITH A SETTLEMENT STATEMENT;

26 (II) PURCHASER, IF THE PURCHASER ELECTS IN WRITING AT OR
27 PRIOR TO A CLOSING TO OBTAIN AN OWNER'S TITLE INSURANCE POLICY AND A TITLE
28 INSURANCE PREMIUM IS COLLECTED IN CONNECTION WITH THE PURCHASER'S
29 OWNER'S TITLE INSURANCE POLICY, FOR TRUST MONEY DELIVERED IN GOOD FUNDS
30 BY OR ON BEHALF OF THE PURCHASER TO THE TITLE INSURANCE PRODUCER OR
31 TITLE INSURER OR PAYABLE TO A PAYMENT RECIPIENT IN ACCORDANCE WITH A
32 SETTLEMENT STATEMENT;

33 (III) BORROWER, IF A TITLE INSURANCE PREMIUM IS COLLECTED
34 IN CONNECTION WITH THE LENDER'S TITLE INSURANCE POLICY, FOR TRUST MONEY
35 DELIVERED IN GOOD FUNDS BY OR ON BEHALF OF THE BORROWER TO THE TITLE
36 INSURANCE PRODUCER OR TITLE INSURER OR PAYABLE TO A PAYMENT RECIPIENT
37 IN ACCORDANCE WITH A SETTLEMENT STATEMENT; AND

38 (IV) LENDER, IF A TITLE INSURANCE PREMIUM IS COLLECTED IN
39 CONNECTION WITH THE LENDER'S TITLE INSURANCE POLICY, OR IF THE LENDER
40 HAS DELIVERED GOOD FUNDS IN RELIANCE ON A TITLE COMMITMENT ISSUED BY

1 THE TITLE INSURANCE PRODUCER OR A TITLE INSURER, FOR TRUST MONEY
2 DELIVERED IN GOOD FUNDS TO THE TITLE INSURER OR TITLE INSURANCE
3 PRODUCER OR PAYABLE TO A PAYMENT RECIPIENT IN ACCORDANCE WITH A
4 SETTLEMENT STATEMENT.

5 (2) A TITLE INSURER SHALL PROVIDE REIMBURSEMENT FOR ACTUAL
6 LOSS SUFFERED BY THE LENDER DUE TO:

7 (I) THE FAILURE OF THE TITLE INSURANCE PRODUCER OR TITLE
8 INSURER TO COMPLY WITH THE LENDER'S WRITTEN CLOSING INSTRUCTIONS TO
9 THE EXTENT THAT THEY RELATE TO:

10 1. THE STATUS OF TITLE TO THE ESTATE OR INTEREST IN
11 THE PROPERTY OR THE VALIDITY, ENFORCEABILITY, AND PRIORITY OF THE
12 LENDER'S LIEN, ENCUMBRANCE, OR SECURITY INTEREST IN THE PROPERTY,
13 INCLUDING THE OBTAINING OF LENDER'S DOCUMENTS AND DISBURSEMENT OF
14 FUNDS NECESSARY TO ESTABLISH THE STATUS OF TITLE OR ESTABLISH THE
15 VALIDITY, ENFORCEABILITY, AND PRIORITY OF THE LENDER'S LIEN, ENCUMBRANCE,
16 OR SECURITY INTEREST IN THE PROPERTY; OR

17 2. OBTAINING LENDER'S DOCUMENTS, BUT ONLY TO THE
18 EXTENT THAT THE FAILURE TO OBTAIN THE LENDER'S DOCUMENTS AFFECTS THE
19 STATUS OF TITLE TO THE ESTATE OR INTEREST IN THE PROPERTY OR THE VALIDITY,
20 ENFORCEABILITY, AND PRIORITY OF THE LIEN, ENCUMBRANCE, OR SECURITY
21 INTEREST IN THE PROPERTY; OR

22 (II) MISHANDLING OF LENDER'S DOCUMENTS.

23 (C) REIMBURSEMENT UNDER THIS SECTION MAY NOT BE PROVIDED FOR:

24 (1) CONVERSION OR MISAPPROPRIATION OF MONEY OR PROPERTY
25 DELIVERED TO THE TITLE INSURER OR TITLE INSURANCE PRODUCER FOR PURPOSES
26 NOT CONNECTED TO A CLOSING;

27 (2) FAILURE OF A PAYMENT RECIPIENT TO PROVIDE AN ACCURATE,
28 WRITTEN PAYMENT STATEMENT TO THE TITLE INSURER OR TITLE INSURANCE
29 PRODUCER;

30 (3) A DISPUTE BETWEEN THE PARTIES TO A CLOSING ABOUT
31 ADJUSTMENTS OR THE AMOUNT OF FUNDS DUE TO A PAYMENT RECIPIENT;

32 (4) NEGLIGENT DELIVERY OF FUNDS OR NEGLIGENT DELIVERY OF
33 EXCESS FUNDS TO A TITLE INSURER OR TITLE INSURANCE PRODUCER BY A PARTY
34 TO A CLOSING, INCLUDING ANY CLAIM FOR INTEREST OR OTHER CHARGE, FEE, OR
35 PENALTY IMPOSED FOR THE USE OF NEGLIGENTLY DELIVERED FUNDS OR EXCESS
36 FUNDS BY THE PARTY TO A CLOSING DELIVERING THE FUNDS;

37 (5) FRAUD BY A PARTY TO THE CLOSING OR ITS AGENT, INCLUDING THE
38 FAILURE TO PROVIDE GOOD FUNDS; AND

1 (6) TRUST MONEY DELIVERED TO A TITLE INSURANCE PRODUCER
2 AFTER NOTICE OF TERMINATION OF THE TITLE INSURANCE PRODUCER'S
3 APPOINTMENT HAS BEEN RECEIVED BY THE ADMINISTRATION.

4 (D) (1) IN CONNECTION WITH A CLOSING IN WHICH A TITLE INSURANCE
5 PRODUCER OR TITLE INSURER HAS COLLECTED A TITLE INSURANCE PREMIUM ON
6 BEHALF OF A TITLE INSURER, THE TITLE INSURANCE PRODUCER OR TITLE INSURER
7 ALSO SHALL COLLECT:

8 (I) A FEE OF \$50 IN CONNECTION WITH A CLOSING IN WHICH A
9 PURCHASER ELECTS, IN WRITING AT OR PRIOR TO A CLOSING, TO OBTAIN AN
10 OWNER'S TITLE INSURANCE POLICY AND A TITLE INSURANCE PREMIUM IS
11 COLLECTED IN CONNECTION WITH THE PURCHASER'S OWNER'S TITLE INSURANCE
12 POLICY, WHETHER OR NOT ANY OTHER TITLE INSURANCE POLICIES ARE ISSUED OR
13 COMMITTED TO BE ISSUED IN CONNECTION WITH THE CLOSING; OR

14 (II) A FEE OF \$25 IN CONNECTION WITH A CLOSING NOT
15 DESCRIBED IN ITEM (1) OF THIS PARAGRAPH, BUT IN WHICH TRUST MONEY
16 PROTECTION IS OTHERWISE PROVIDED UNDER THIS SECTION.

17 (2) FEES COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION
18 SHALL BE ADDED TO, AND INDICATED AS A PART OF, THE COST OF TITLE INSURANCE.

19 (E) A TITLE INSURER MAY NOT:

20 (1) SPLIT FEES COLLECTED UNDER THIS SECTION WITH A TITLE
21 INSURANCE PRODUCER; OR

22 (2) PAY A COMMISSION TO A TITLE INSURANCE PRODUCER BASED, IN
23 WHOLE OR IN PART, ON THE FEES COLLECTED UNDER THIS SECTION.

24 (F) (1) WITH RESPECT TO A CLOSING:

25 (I) IF MORE THAN ONE TITLE INSURANCE COMMITMENT IS ISSUED
26 IN CONNECTION WITH THE CLOSING, EACH TITLE INSURER IDENTIFIED ON EACH
27 COMMITMENT SHALL SHARE EQUALLY IN THE ACTUAL LOSS PROTECTED AGAINST
28 UNDER THIS SECTION; AND

29 (II) IF THE IDENTIFICATION OF THE TITLE INSURER NAMED ON
30 THE SETTLEMENT STATEMENT IS INCONSISTENT WITH THAT OF THE TITLE INSURER
31 IDENTIFIED ON ANY TITLE INSURANCE COMMITMENT ISSUED IN CONNECTION WITH
32 THE CLOSING, THE TITLE INSURERS SHALL SHARE EQUALLY IN THE ACTUAL LOSS
33 PROTECTED AGAINST UNDER THIS SECTION.

34 (2) (I) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, IF A
35 TITLE INSURANCE POLICY INSURING THE TITLE AS DESCRIBED IN THE
36 COMMITMENT OR COMMITMENTS ISSUED IN CONNECTION WITH THE CLOSING IS
37 ISSUED, THE TITLE INSURER NAMED IN THE TITLE INSURANCE POLICY SHALL BE
38 SOLELY LIABLE FOR THE ACTUAL LOSS PROTECTED AGAINST UNDER THIS SECTION.

1 (II) IF MORE THAN ONE TITLE INSURANCE POLICY INSURING THE
2 TITLE AS DESCRIBED IN THE COMMITMENT OR COMMITMENTS IS ISSUED, EACH
3 IDENTIFYING A DIFFERENT TITLE INSURER, EACH TITLE INSURER IDENTIFIED
4 SHALL SHARE EQUALLY IN THE ACTUAL LOSS PROTECTED AGAINST UNDER THIS
5 SECTION.

6 (3) (I) IF A PURCHASER WHO HAS ELECTED IN WRITING AT OR PRIOR
7 TO A CLOSING TO OBTAIN AN OWNER'S TITLE INSURANCE POLICY SUSTAINS AN
8 ACTUAL LOSS, AND NEITHER A TITLE INSURANCE COMMITMENT NOR A TITLE
9 INSURANCE POLICY IS ISSUED IN CONNECTION WITH THE CLOSING, THE TITLE
10 INSURER WITH WHOM THE CONVERTING OR MISAPPROPRIATING TITLE INSURANCE
11 PRODUCER HOLDS AN APPOINTMENT, OR WITH WHOM THE CONVERTING OR
12 MISAPPROPRIATING EMPLOYEE IS EMPLOYED, SHALL BE SOLELY LIABLE FOR THE
13 ACTUAL LOSS PROTECTED AGAINST UNDER THIS SECTION.

14 (II) IF THE CONVERTING OR MISAPPROPRIATING TITLE INSURANCE
15 PRODUCER HOLDS APPOINTMENTS WITH MORE THAN ONE TITLE INSURER AT THE
16 TIME OF THE CONVERSION OR MISAPPROPRIATION, THE TITLE INSURERS WITH
17 WHOM THE TITLE INSURANCE PRODUCER HOLDS APPOINTMENTS SHALL SHARE
18 EQUALLY IN THE ACTUAL LOSS PROTECTED AGAINST UNDER THIS SECTION.

19 (G) (1) A PROTECTED PARTY SHALL GIVE PROMPT WRITTEN NOTICE OF A
20 LOSS TO THE TITLE INSURER NAMED IN THE TITLE INSURANCE POLICY ISSUED IN
21 CONNECTION WITH A CLOSING AT THE ADDRESS PROVIDED IN THE TITLE
22 INSURANCE POLICY OR THE ADDRESS PROVIDED IN THE RECORDS OF THE
23 ADMINISTRATION.

24 (2) IF FAILURE TO GIVE PROMPT NOTICE OF A CLAIM PREJUDICES THE
25 TITLE INSURER NAMED IN THE TITLE INSURANCE POLICY, THE LIABILITY OF THE
26 TITLE INSURER SHALL BE REDUCED TO THE EXTENT OF THE PREJUDICE.

27 (H) THE ADMINISTRATIVE REMEDIES PROVIDED IN § 27-305 OF THIS ARTICLE
28 SHALL APPLY TO A CLAIM FILED FOR REIMBURSEMENT UNDER THIS SECTION.

29 (I) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS
30 SUBSECTION, ALL RIGHTS AND REMEDIES HELD BY A PROTECTED PARTY AGAINST
31 ANY PROPERTY OR PERSON RESPONSIBLE FOR A LOSS SUSTAINED BY THE
32 PROTECTED PARTY SHALL VEST IN THE TITLE INSURER THAT HAS PAID A CLAIM
33 UNDER THIS SECTION.

34 (2) A TITLE INSURER SHALL HAVE NO RIGHT TO REIMBURSEMENT FOR
35 LOSS AGAINST:

36 (I) THE CLIENT PROTECTION FUND OF THE BAR OF MARYLAND; OR

37 (II) THE BLANKET SURETY BOND OR LETTER OF CREDIT
38 DESCRIBED IN § 10-121 OF THIS ARTICLE UNTIL AFTER ALL OTHER ALLOWED, VALID
39 CLAIMS FILED AGAINST THE BOND OR LETTER OF CREDIT BY OTHER PERSONS HAVE
40 BEEN PAID.

1 (J) (1) REIMBURSEMENT PROVIDED TO A PROTECTED PARTY UNDER THIS
2 SECTION SHALL BE LIMITED TO THE ACTUAL LOSS SUSTAINED BY THE PROTECTED
3 PARTY.

4 (2) A TITLE INSURER IS NOT LIABLE FOR REIMBURSEMENT IN AN
5 AMOUNT THAT EXCEEDS THE AMOUNT OF TOTAL FUNDS HELD BY THE TITLE
6 INSURANCE PRODUCER OR TITLE INSURER IN CONNECTION WITH A CLOSING.

7 (3) A TITLE INSURER IS NOT LIABLE FOR SPECIAL OR CONSEQUENTIAL
8 DAMAGES CLAIMED BY A PROTECTED PARTY IN CONNECTION WITH A LOSS
9 DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

10 (4) A CLAIM FOR DAMAGES OR REIMBURSEMENT MADE BY A
11 PROTECTED PARTY BASED ON A LOSS DESCRIBED IN SUBSECTION (B) OF THIS
12 SECTION SHALL BE RESTRICTED TO THE REMEDIES PROVIDED IN THIS SECTION.

13 (K) (1) A TITLE INSURER OR TITLE INSURANCE PRODUCER MAY PROVIDE A
14 LETTER OR OTHER COVERAGE STATEMENT TO A PARTY TO A CLOSING THAT
15 DESCRIBES THE TRUST MONEY PROTECTION PROVIDED BY THIS SECTION.

16 (2) IF THE TERMS OF A LETTER OR COVERAGE STATEMENT PROVIDED
17 UNDER PARAGRAPH (1) OF THIS SUBSECTION CONFLICTS WITH THIS SECTION, THE
18 PROVISIONS OF THIS SECTION SHALL CONTROL.

19 27-216.

20 (b) (1) A person may not willfully collect a premium or charge for insurance
21 that:

22 (i) exceeds or is less than the premium or charge applicable to that
23 insurance under the applicable classifications and rates as filed with and approved by
24 the Commissioner; or

25 (ii) if classifications, premiums, or rates are not required by this
26 article to be filed with and approved by the Commissioner, exceeds or is less than the
27 premium or charge specified in the policy and set by the insurer.

28 (2) Paragraph (1) of this subsection does not prohibit:

29 (i) a surplus lines broker that holds a certificate of qualification
30 under Title 3, Subtitle 3 of this article from charging and collecting applicable State
31 and federal taxes in addition to the required premium;

32 (ii) a life insurer from charging and collecting the amount actually
33 expended for a medical examination of an applicant for life insurance or
34 reinstatement of a policy of life insurance;

35 (iii) an insurance producer from charging a fee, not exceeding 15%
36 of the premium, for services rendered in replacing insurance in an insurer if
37 commissions are not payable by the insurer; [or]

1 (iv) a fund producer from charging and collecting, as actual
2 expenses incurred in placing automobile insurance with the Maryland Automobile
3 Insurance Fund:

4 1. a maximum charge of \$10 plus \$1 more than the actual
5 charge by the Motor Vehicle Administration for a driving record required to be
6 presented with the application, unless otherwise provided by the Fund; or

7 2. the amount provided in subsection (e) of this section; OR

8 (V) A TITLE INSURER FROM COLLECTING THE FEES DESCRIBED IN
9 § 22-104(D) OF THIS ARTICLE, IN CONNECTION WITH PROVIDING TRUST MONEY
10 PROTECTION UNDER § 22-104 OF THIS ARTICLE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That, on or after July 1,
12 2008, the Maryland Insurance Commissioner may review the reasonableness of the
13 fees established in § 22-104(d) of the Insurance Article, as enacted by Section 1 of this
14 Act, and may modify the fees by regulation after consideration of all relevant factors.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect July 1, 2003.